

EASEMENT AND RIGHT OF WAY CANCELLATION

3356

(Sept 1999)

There is no merit to retention of unneeded fire protection facilities, such as truck trails and fuelbreaks, which have outlived their usefulness.

If it is determined that a facility is no longer offering vital fire protection to an area, the rights by which it is held should be canceled. Such action will relieve CDF of responsibility for maintenance and the liability caused by lack of maintenance. To landowners who might protest the withdrawal, it should be pointed out that the cancellation does not imply denial of fire protection. The advances in firefighting equipment, such as helicopter use, have provided CDF the ability to respond effectively without the expanse of roads required in the past.

Procedural care must be taken in the divestment processes, so as to properly absolve the state from the consequences of contractual infractions and future liability.

The cancellation of a right-of-way can be accomplished by either termination of the contract or by the abandonment of the facility, when specifically provided for in the agreement.

Termination A bilateral action effected by mutual assent of both parties, or their successors, to the agreement.

Abandonment A unilateral action, effected by CDF's nonexercise of rights conferred to it, for a period of two or more years (provided for in A-7 agreement documents). Providing notice of intent to take such action to each property owner of concern is not mandated. But a log must be kept for the period of noncompliance which specifies the time of the start of noncompliance and its ends.

NONEXERCISE OF RIGHTS IN A MULTIRIGHT AGREEMENT

3356.1

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If a right-of-way agreement confers the right to establish more than one type of fire protection facility in the same document, the nonexercise of one or more of the rights will not invalidate the document for the use of the other rights.

DOCUMENTS BEARING GENERAL SERVICES OR FINANCE APPROVAL 3356.2

(Sept 1999)

A recorded document or one that bears approval by the DGS or Finance can only be terminated or abandoned with approval of RESD.

ABANDONMENT OF UNWANTED BRIDGES ALONG FIRE ROADS 3356.3

(Sept 1999)

The best way to proceed in abandoning rights held for unwanted bridges is with common sense and extreme caution. CDF has no legal obligation to keep a bridge on a fire road open. However, in deference to the landowner on whose property the easement lies, it would seem sensible to offer the landowner the chance to assume ownership and maintenance of the bridge. If that happens, CDF should obtain a clearly worded statement from the owner waiving any future state responsibility, or convey said ownership by quitclaim document.

If the landowner doesn't want the bridge, CDF can offer it to other responsible parties, tear it down, or block it off. When removing or closing a bridge, CDF must exercise great care. Removing the bridge poses obvious risks to the stream below from debris of all sorts and would require some form of environmental clearance. Closing the bridge by blocking access to it at both ends, in order to prevent people from injuring themselves, becomes a problem because CDF would no longer be maintaining the structure. Big, bold signs, frequently checked and maintained, are an aid in warning people to stay away from this potential hazard.

Abandoning any bridge must be done with the cooperation of legal counsel.

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